

Chapter 22

ITINERANT VENDORS*

- Art. I. In General, §§ 22-1—22-13
Art. II. License, §§ 22-14—22-21

ARTICLE I. IN GENERAL

Sec. 22-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Itinerant vendor*. The term "itinerant vendor" shall mean all persons, as well as their agents and employees, who engage in the temporary or transient business in the city of selling, or offering for sale, any goods or merchandise, or exhibiting the same for sale, or exhibiting the same for the purpose of taking orders for the sale thereof, and who, for the purpose of carrying on such business or conducting such exhibits thereof, display, exhibit, sell or offer for sale such goods or merchandise upon or from a truck or other vehicle on the streets of the city, or who hire, rent, lease or occupy any room or space in any building, structure, other enclosure, vacant lot or any other property whatever in the city in, through or from which any goods or merchandise may be sold, offered for sale, exhibited for sale or exhibited for the purpose of taking orders for the sale thereof, or who shall sell or offer for sale any goods or merchandise while upon the property of another, without the express written consent of the owner or occupant thereof. The term "itinerant vendor" shall not include or be construed to include anyone engaged in interstate commerce or anyone upon whom the provisions of this chapter would impose a direct and unlawful burden on interstate commerce.

- (2) *Goods or merchandise*. The phrase "goods or merchandise" shall mean any personal property of any nature whatsoever including but not limited to tickets for admission to athletic, sporting or entertainment events or shows.
- (3) *Temporary*. The word "temporary," shall mean any such business transacted or conducted in the city for which definite arrangements have not been made for the hire, rental or lease of premises for at least one month in or upon which such business is to be operated or conducted.
- (4) *Transient*. The word "transient," shall mean any such business as may be operated or conducted by persons or by their agents or employees who reside away from this city, or who have fixed places of business in places other than this city, or who have their headquarters in places other than this city, or who move stocks of goods, or merchandise or samples thereof into this city with the purpose or intention of removing them or the unsold portion thereof away from the city before the expiration of one month, or who sell and offer for sale such goods or merchandise while upon the property of another, without the prior written consent of the owner or occupant thereof, or conduct such business away from their fixed places of business, if any, or who have no such fixed places of business.

(Code 1968, § 22-1; Ord. No. 69-1770, § 1, 9-24-69)

Sec. 22-2. Exemptions.

This chapter shall not apply to the following:

*Cross references—Antique dealers, junk dealers, etc., Ch. 7; common markets, § 7-181 et seq.; seafood dealers, § 20-120 et seq.; itinerant seafood dealers prohibited, § 20-121; license for peddlers of farm produce, § 20-174; shouting of peddlers, hawkers, and vendors, § 30-15.

- (1) Ordinary commercial travelers who sell or exhibit for sale goods or merchandise to parties engaged in the business of buying and selling and dealing in goods or merchandise.
 - (2) Sales of goods or merchandise donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose.
- (Code 1968, § 22-2; Ord. No. 69-1770, § 1, 9-24-69)

Secs. 22-3—22-13. Reserved.

ARTICLE II. LICENSE

Sec. 22-14. Required.

It shall be unlawful for any itinerant vendor to sell, offer for sale, exhibit for sale, or exhibit for the purpose of taking orders for the sale thereof, any goods or merchandise in the city without first obtaining a license so to do in accordance with this article.

(Code 1968, § 22-14)

Sec. 22-15. Application.

Every itinerant vendor shall make application to the tax assessor-collector for the license required by this article, which application shall be filed at least ten (10) days prior to the date of his contemplated sale or exhibit to be held in the city. Such application shall be in the form of an affidavit stating the full name and address of the itinerant vendor, the location of his principal office and place of business, the names and addresses of its officers, if it is a corporation, and the partnership name and the names and addresses of all partners, if such itinerant vendor is a firm. The application must be accompanied by:

- (1) A statement showing the kind and character of the goods or merchandise to be sold, offered for sale or exhibited.
- (2) A certified copy of the charter, if the itinerant vendor is a corporation incorporated under the laws of the state.
- (3) A certified copy of its permit to do business in Texas, if the itinerant vendor is a corporation

incorporated under the laws of some state other than Texas.

(Code 1968, § 22-15)

Sec. 22-16. Bond required of applicant.

Each applicant for a license under this article shall file, with his application, a bond in the sum of not less than two thousand dollars (\$2,000.00), executed by the itinerant vendor as principal with two (2) or more good and sufficient sureties satisfactory to the assessor-collector of taxes, or a corporate surety authorized to do business in the state, which bond shall be payable to the mayor and his successors in office for the use and benefit of any person entitled thereto, and conditioned that the principal and surety will pay all damages to persons caused by, arising from or growing out of the wrongful, fraudulent or illegal conduct of the itinerant vendor while conducting the sale or exhibit in the city. The bond shall remain in full force and effect for the entire duration of the license and for two (2) years thereafter.

(Code 1968, § 22-16)

Sec. 22-17. Fee.

The fee for a license required by this article shall be fifty dollars (\$50.00).

(Code 1968, § 22-17)

Sec. 22-18. Issuance.

The assessor-collector of taxes shall issue to any itinerant vendor a license authorizing such itinerant vendor to sell, exhibit for sale, offer for sale or exhibit for the purpose of taking orders for the sale thereof, in the city, his goods or merchandise after such itinerant vendor has fully complied with all provisions of this article and paid the prescribed fee.

(Code 1968, § 22-18)

Sec. 22-19. Term.

The license provided for by this article shall continue so long as such sale or exhibit is continuously held in the city, but in no event shall it continue for more than forty (40) days from the date of its issuance.

(Code 1968, § 22-19)

Sec. 22-20. Not transferable; authority to conduct business extends to one person only.

A license issued under this article shall not be transferable nor give authority to more than one person to conduct a business as an itinerant vendor, but any person having obtained such license may have the assistance of one or more persons in conducting such business.

(Code 1968, § 22-20)

Sec. 22-21. Display.

A license issued under this article shall be prominently displayed in a conspicuous place on the premises where the sale or exhibit is being conducted and shall remain so displayed as long as any goods or merchandise are being so sold or exhibited.

(Code 1968, § 22-21)

Sec. 22-22. Sale of goods or merchandise on public property.

(a) No itinerant vendor shall expose for sale or sell any goods or merchandise on any public sidewalk, public street or other public property or to offer for sale or sell any goods or merchandise to any person who is on a public sidewalk, public street or other public property.

(b) Subsection (a) shall not apply to:

- (1) A person selling frozen desserts from a sanitary vehicle in full compliance with the ordinances and statutes regulating such, or a person acting in full compliance with the ordinances permitting the sale of newspapers on public property;
- (2) Any person who is acting in compliance with a franchise granted by the city; or
- (3) Transactions in public buildings or on public property in which transactions the city is a party.

(Code 1968, § 22-22; Ord. No. 76-1089, § 1, 6-30-76; Ord. No. 78-2261, § 1, 11-16-78)

Cross reference—Exception from this section for the Houston Festival, § 12-85.

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